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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,825

11/13/2003

Mark D. Monica

IPE-1

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28581 7590 08/19/2009
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EXAMINER

PATEL, TAJASH D

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

08/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/712,825	Applicant(s) MONICA, MARK D.	
	Examiner Tejash D. Patel	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, 10, 12-20, 22-23, 28-32, 34-47, 49-50, 52-53, 55-89, 161-166, 172 and 174, 13-16, 23, 28-32, 34-35, 52- 54, and 75-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1, 3-5, 10, 12-20, 22-23, 28-32, 34-47, 49-50, 52-53, 55-89, 161-166, 172 and 174, 13-16, 23, 28-32, 34-35, 52- 54, and 75-80.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-5, 10, 12, 17-20, 22, 36-47, 49-50, 67-74, 81-89, 161-166, 172 and 174 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (US 3,981,027) in view of Monica (US 6,321,386) and Farrell (US 6,295,654). Anderson discloses a protective pad apparatus for protecting the chest, back and shoulder that includes shoulder shell assembly (8a, 8b, 9a, 9b) having a cushioning laminated pad being fastened thereto, col. 3, lines 1-2. Also, the shell assembly is defined by first and second halves which move relative to one another by a protector plate (4) having adjustable slots (5a, 5b), col. 3, lines 59-68 and as shown in figures 2-4. Furthermore, at least one spring element/restrictor insert (1), col. 3, lines 3-17 is attached to an inner shoulder portion as shown in figure 3. However, Anderson does not show the assembly having an outer fabric layer that reflects heat with laminated cushioning pad. .

Monica discloses a protective pad having a shell assembly that allows air therethrough as shown in figure 10. Further, the pad can be laminated with an outer fabric layer that reflects heat, col. 4, line 61- col. 7, line 52.

Farrell discloses a protective pad apparatus (10) for protecting the chest, back and shoulder that includes a shell assembly (40) having a cushioning laminated pad (20) being fastened thereto which allow air to flow therethrough as shown in figures 2 and 4. Further, the laminate includes an outer and inner fabric layers (24) which allows air to flow therethrough as shown in figure 2. In addition, the cushioning pad laminate includes at least two discrete impact absorbing foam layers (32), col. 3, line 53 – col. 4, line 11. Furthermore, the cushioning pad laminate can include discrete impact absorbing layers. Also, the shell assembly (40) includes a plurality of discrete protector panels as shown in figure 4. Additionally, the shell assembly has first and second halves which move relative to one another, col. 5, lines 1-13. The protective pad is secured to the body by a belt strap (54). Further, the shell assembly being defined front, back and shoulder portions/panels each has a plurality of raised embossments thereon as shown in figure 4.

It would have been obvious to one skilled in the art at the time the invention was made to substitute the protective pad of Anderson with an outer fabric layer that reflects heat as taught by Monica or conventional reflective layers with laminated cushioning pad in order to keep the wearer cool and comfortable while the device absorbs force of impact or depending on the end use thereof.

With regard to claims 5, 12, 18, 20, 37, 39, 41, 45, and 73, it would have been obvious to one skilled in the art at the time the invention was made to form the outer fabric of Anderson when viewed with Monica and Farrell form any desired material and colorized finish that was available at the device was made to make the device cost effective, decorative and that the chosen material has substantial reflective property against heat to a certain degree or as required for a particular application thereof. Further, it would have been obvious that the cushioning pad and shell assembly of Anderson in view of Monica and Farrell can be made of any pigmented/dyed color in order to make the device decorative or as a matter of design choice.

Furthermore, it would have been obvious to one skilled in the art the the device of Anderson when viewed with Monica and Farrell can be provided with multiple layers of impact absorbing material to absorb greater force of impact as required for a particular application thereof.

3. Claims 13-16, 23, 28-32, 34-35, 52-53, and 75-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Monica and Farrell and further in view of Bainbridge et al. (US 6,453,477). Anderson discloses the invention as set forth above except for showing the cushioning pad including a substrate that is made of foam beads that are fused where the beads contact.

Bainbridge et al. (hereinafter Bainbridge) discloses a cushioning pad (20) including foamed beads (22) that are fused together where the beads contact one another, col. 14, lines 30-

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67 and as shown in figures 30-32. Also, the pad is detachably secured to an shell assembly (54) by detachable snap fasteners (60) as shown in figure 25.

It would have been obvious to one skilled in the art at the time the invention was made to substitute one of the layers of the cushioning pad of Anderson when viewed with Moncia and Farrell with a substrate that is made of foam beads that are fused where the beads contact as taught by Bainbridge as an alternative but equivalent means of absorbing force of impact as known in the art. Furthermore, it would have been obvious that impact cushioning material having different absorbing properties can be substituted for the layers of Anderson as required for a particular application thereof. Also, it would have been obvious that the shell assembly of Anderson in view of Monica and Farrell can be detachably secured to the pad by snap as taught by Bainbridge so that the shell is easily removed when not in use or damaged.

Response to Amendment

4. In light of the interview summary mailed on August 6, 2009 this office action is being made new non-final.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The examiner's supervisor Mr. Gary Welch can be reached at (571) 272-4996. The group fax number is (571) 273-8300

August 10, 2009

/Tejash Patel/
Primary Examiner
AU 3765